

**Michael Newdow, JD
PO Box 233345
Sacramento, CA 95823**

Phone: (916) 427-6669; 916-273-3798

e-mail: NewdowLaw@gmail.com

August 13, 2007

Office of the Clerk
U.S. Court of Appeals
Post Office Box 193939
San Francisco, CA 94119-3939

Re: *Newdow v. Congress*, Case No. 06-16344

Dear Sir or Madam:

Kindly note that my e-mail address has been changed to

NewdowLaw@gmail.com

Thank you very much for your time and consideration.

Sincerely,

Michael Newdow, *in pro per*
CA State Bar No. 220444

**Michael Newdow, JD
PO Box 233345
Sacramento, CA 95823**

Phone: (916) 427-6669; 916-273-3798

e-mail: NewdowLaw@gmail.com

August 13, 2007

Office of the Clerk
U.S. Court of Appeals
Post Office Box 193939
San Francisco, CA 94119-3939

Re: *Newdow v. Congress*, Case No. 06-16344

Dear Sir or Madam:

Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28-6, Plaintiff-Appellant submits this supplemental authority regarding *Washington v. Klem*, ___ F.3d ___, No. 05-2351 (3rd Cir. August 2, 2007).

Klem involved a prisoner's challenge under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc *et seq.* For RLUIPA, "Congress carried over from RFRA the 'compelling governmental interest'/'least restrictive means' standard," *Cutter v. Wilkinson*, 504 U.S. 709, 717 (2005), although RLUIPA is "[l]ess sweeping than RFRA." *Id.*, at 715.

Basically, RFRA/RLUIPA challenges focus on three issues: (1) the "substantial burden" to the plaintiff's free exercise of religion, (2) the compelling interest of the government, and (3) whether or not that interest (if compelling) is being served in the least restrictive manner. *Klem*'s discussions of each of those issues strongly support Plaintiff Newdow's arguments in the case at bar.

The Third Circuit ruled in favor of the *Klem* plaintiff, who – like Plaintiff Newdow – was the founder of his own church. Slip op. at 3. Noting that RLUIPA “shall be construed in favor of a broad protection of religious exercise,” slip op. at 10 (citing RLUIPA Section 5(g)), the Court determined that being limited to only ten books substantially burdened the plaintiff’s free exercise. Significant though that burden is, it surely pales in comparison Plaintiff Newdow’s burdens. AOB 15-27.

The *Klem* Court found a compelling governmental interest, slip op. at 21-22 (referencing “safety and health”), but determined that the book limitation was not the least restrictive means of serving that interest. Following the Ninth Circuit’s approach in *Warsoldier v. Woodford*, 418 F.3d 989 (9th Cir. 2005), *Klem* highlighted that the absence of the limitation in other prison settings was probative in showing that the least restrictive means requirement was not met. Slip op. at 25.

In the instant case, there is no compelling interest at all, AOB at 28-29, and the facts that (a) the nation functioned perfectly well without “In God We Trust” as its motto for 167 years, AOB at 28-29; and (b) it manufactured coins and/or currency without that motto throughout that time period, AOB at 29, corroborate that whatever interest there is in espousing Monotheism, using “In God We Trust” as the nation’s motto and placing those words on the nation’s money is not the least restrictive means of serving it.

Respectfully submitted,

Michael Newdow, *in pro per*
CA State Bar No. 220444

CERTIFICATE OF SERVICE

CASE NO. 06-16344

I HEREBY CERTIFY that on this 13th day of August, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Washington v. Klem*, ___ F.3d ___, No. 05-2351 (3rd Cir. August 2, 2007), were delivered by e-mail to the following individuals:

Lowell Sturgill (lowell.sturgill@usdoj.gov)
Theodore Charles Hirt (theodore.hirt@usdoj.gov)
Robert Katerberg (Robert.katerberg@usdoj.gov)

Kevin Snider (kevinsnider@pacificjustice.org)
Brad Dacus (braddacus@pacificjustice.org)

These individuals were also informed of Plaintiff's change of e-mail address (to NewdowLaw@gmail.com).

Pursuant to Ninth Circuit Rule 25-3.3, the undersigned has received a completed and signed Form 13 (Consent to Electronic Service) from counsel for each of the parties.

August 13, 2007

Michael Newdow, *in pro per*
CA SBN: 220444
PO Box 233345
Sacramento, CA 95823

Phone: (916) 427-6669
(916) 273-3798

E-mail: NewdowLaw@gmail.com